



Agenda Item Number: \_\_\_\_\_

# BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS

Meeting Date: June 24, 2008

Department: Zoning, Building & Planning Staff Contact: Enrico Gradi, Program Planner

**TITLE:** APPEAL: Denial of a Special Use Permit for Specific Uses for an Apartment and a Single Family Dwelling Unit on Lot 35, Mervosh Addition, located at 2412 Mervosh Avenue SW, zoned R-1, and containing approximately .25 acres. The decision was based on the following Findings (CO-80005/CSU-70009).

## COUNTY PLANNING COMMISSION RECOMMENDATION:

Denial of a Special Use Permit

## SUMMARY:

This case was deferred from the April 22, 2008 public hearing at the applicant's request. Previously, at the February 26, 2008 public hearing, the Board of County Commissioners deferred this appeal for a period of 60 days in order to allow the applicant additional time to produce an appropriate site plan, building plan and address Resolution 116-86. To date, staff has received a response to Resolution 116-86, a revised site plan was submitted on April 22, 2008 and building plans were submitted on April 9<sup>th</sup>. However, additional information needed from a structural engineer has yet to be provided.

At the January 9, 2008 public hearing, the County Planning Commission (CPC) voted (5-1; Becerra opposed) to recommend denial of a request for a Special Use Permit for Specific Uses for an Apartment and a Single Family Dwelling Unit on Lot 35, Mervosh Addition, located at 2412 Mervosh Avenue SW, zoned R-1, and containing approximately .25 acres. The decision was based on seven (7) Findings (Attachment 5).

The decision was partially based on the fact that the applicant had not followed the direction of the CPC to demonstrate that the dwelling units included in the request were safe and consistent with the Bernalillo County Building Code. In addition, the CPC found that the request conflicted with Resolution 116-86 in that the request conflicts with Resolution 116-86 because Southwest Area Plan Policy 26 (g) allows a maximum residential density of up to three dwelling units per net acre when city sewer services are available.

The applicants appeal includes a request for additional time to secure assistance in order to prepare an appropriate application (Attachment 4).

The criteria for considering zone map changes and special use permit applications require that the applicant demonstrate that the existing zoning is inappropriate because (1) there was an error

when the existing zone map pattern was created or (2) changed neighborhood or community conditions justify the land use change or (3) a different land use category is more advantageous to the community, as articulated in the Comprehensive Plan or other land use plan adopted by the Board of County Commissioners even though (1) or (2) do not apply.

**ATTACHMENTS:**

1. Board of County Commissioners Notice of Decision Letter (April 24, 2008)
2. Revised Response to Resolution 116-86 (April 9, 2008)
3. Board of County Commissioners Notice of Decision Letter (February 28, 2008)
4. Appeal Application (January 28, 2008).
5. County Planning Commission Notification of Decision Letter (January 11, 2008).
6. County Planning Commission Information Packet.
7. County Planning Commission Minutes
8. Revised Site Plan (Commissioners Only) (April 22, 2008)

**STAFF ANALYSIS SUMMARY**

**ZONING, BUILDING & PLANNING DEPARTMENT**

Staff recommends denial of the appeal.